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ENGROSSED SENATE BILL 5738

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State of Washington

60th Legislature

2007 Regular Session

By Senators Oemig and Swecker; by request of Secretary of State

Read first time 01/30/2007. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to administering elections by mail; amending RCW  
2 29A.44.090; and reenacting and amending RCW 29A.40.110 and 29A.60.165.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 29A.40.110 and 2006 c 207 s 4 and 2006 c 206 s 6 are  
5 each reenacted and amended to read as follows:

6 (1) The opening and subsequent processing of return envelopes for  
7 any primary or election may begin upon receipt. The tabulation of  
8 absentee ballots must not commence until after 8:00 p.m. on the day of  
9 the primary or election.

10 (2) All received absentee return envelopes must be placed in secure  
11 locations from the time of delivery to the county auditor until their  
12 subsequent opening. After opening the return envelopes, the county  
13 canvassing board shall place all of the ballots in secure storage until  
14 ((after 8:00 p.m. of)) the day of the primary or election. Absentee  
15 ballots that are to be tabulated on an electronic vote tallying system  
16 may be taken from the inner envelopes and all the normal procedural  
17 steps may be performed to prepare these ballots for tabulation.

18 (3) Before opening a returned absentee ballot, the canvassing  
19 board, or its designated representatives, shall examine the postmark,

1 statement, and signature on the return envelope that contains the  
2 security envelope and absentee ballot. All personnel assigned to  
3 verify signatures must receive training on statewide standards for  
4 signature verification. Personnel shall verify that the voter's  
5 signature on the return envelope is the same as the signature of that  
6 voter in the registration files of the county. Verification may be  
7 conducted by an automated verification system approved by the secretary  
8 of state. For any absentee ballot, a variation between the signature  
9 of the voter on the return envelope and the signature of that voter in  
10 the registration files due to the substitution of initials or the use  
11 of common nicknames is permitted so long as the surname and handwriting  
12 are clearly the same.

13 (4) For registered voters casting absentee ballots, the date on the  
14 return envelope to which the voter has attested determines the  
15 validity, as to the time of voting for that absentee ballot if the  
16 postmark is missing or is illegible. For out-of-state voters, overseas  
17 voters, and service voters stationed in the United States, the date on  
18 the return envelope to which the voter has attested determines the  
19 validity as to the time of voting for that absentee ballot.

20 **Sec. 2.** RCW 29A.44.090 and 2003 c 111 s 1109 are each amended to  
21 read as follows:

22 ~~((A registered voter shall not be allowed to vote in the precinct  
23 in which he or she is registered at any election or primary for which  
24 that voter has cast an absentee ballot. A registered voter who has  
25 requested an absentee ballot for a primary or special or general  
26 election but chooses to vote at the voter's precinct polling place in  
27 that primary or election shall cast a provisional ballot. The  
28 canvassing board shall not count the ballot if it finds that the voter  
29 has also voted by absentee ballot in that primary or election.))~~ If a  
30 registered voter who was issued an absentee or mail ballot requests to  
31 vote at a polling place, the precinct election officer shall attempt to  
32 confirm whether the voter has already returned an absentee or mail  
33 ballot. Confirmation may be achieved by accessing the county voter  
34 registration system by electronic, telephonic, or other means.

35 (1) If the precinct election officer is able to confirm that the  
36 voter has not already returned an absentee or mail ballot, the voter  
37 may be issued a regular ballot. In order to prevent multiple voting,

1 the voter must be immediately credited or flagged in the voter  
2 registration system as having voted. If an absentee or mail ballot is  
3 subsequently returned, the canvassing board may not count the absentee  
4 or mail ballot.

5 (2) If the precinct election officer is unable to confirm whether  
6 the voter has already returned a ballot, the voter must be issued a  
7 provisional ballot. If the voter has already returned an absentee or  
8 mail ballot, the canvassing board may not count the provisional ballot.  
9 If the canvassing board counts the provisional ballot and an absentee  
10 or mail ballot is subsequently returned, the canvassing board may not  
11 count the absentee or mail ballot.

12 **Sec. 3.** RCW 29A.60.165 and 2006 c 209 s 4 and 2006 c 208 s 1 are  
13 each reenacted and amended to read as follows:

14 (1) If the voter neglects to sign the (~~outside envelope of~~) oath  
15 on an absentee or provisional ballot envelope, signs the oath with a  
16 mark and fails to have two witnesses attest to the signature, or signs  
17 the ballot envelope but the signature on the envelope does not match  
18 the signature on the voter registration record, the auditor shall  
19 notify the voter by first class mail (~~and advise the voter~~) of the  
20 correct procedures for (~~completing the unsigned affidavit~~) curing the  
21 signature. If (~~the~~) such an absentee ballot is not received within  
22 three business days of the final meeting of the canvassing board, or  
23 the voter has been notified by first class mail and has not responded  
24 by at least three business days before the final meeting of the  
25 canvassing board, (~~then~~) the auditor shall attempt to notify the  
26 voter by telephone, using information in the voter registration record  
27 (~~information~~).

28 (~~In order for the ballot to be counted~~) (2) If the voter neglects  
29 to sign the oath on an absentee or provisional ballot envelope, or  
30 signs the oath with a mark and fails to have two witnesses attest to  
31 the signature, the voter must either:

32 (a) Appear in person and sign the envelope no later than the day  
33 before (~~the~~) certification of the primary or election; or

34 (b) Sign a copy of the envelope provided by the auditor, and return  
35 it to the auditor no later than the day before (~~the~~) certification of  
36 the primary or election.

1       ~~((2)(a) If the handwriting of the signature on an absentee or~~  
2 ~~provisional ballot envelope is not the same as the handwriting of the~~  
3 ~~signature on the registration file, the auditor shall notify the voter~~  
4 ~~by first class mail, enclosing a copy of the envelope affidavit, and~~  
5 ~~advise the voter of the correct procedures for updating his or her~~  
6 ~~signature on the voter registration file. If the absentee or~~  
7 ~~provisional ballot is received within three business days of the final~~  
8 ~~meeting of the canvassing board, or the voter has been notified by~~  
9 ~~first class mail and has not responded at least three business days~~  
10 ~~before the final meeting of the canvassing board, then the auditor~~  
11 ~~shall attempt to notify the voter by telephone, using the voter~~  
12 ~~registration record information. In order for the ballot to be~~  
13 ~~counted)) (3) If the signature on the oath of an absentee or~~  
14 ~~provisional ballot envelope does not match the signature on the voter~~  
15 ~~registration record, the voter must ((either)):~~

16       ~~((i))~~(a) Appear in person and sign a new registration form no  
17 later than the day before ((the)) certification of the primary or  
18 election. The updated signature provided on the new registration form  
19 becomes the signature on the voter registration record for the current  
20 election and future elections; ((or

21 ((ii))) (b) Sign a copy of the affidavit provided by the auditor and  
22 ~~((return it to the auditor no later than the day before the~~  
23 ~~certification of the primary or election. The voter may enclose with~~  
24 ~~the affidavit)) provide a photocopy of a valid government or tribal~~  
25 ~~issued identification document that includes the voter's current~~  
26 ~~signature. ((If)) The signatures on ((the copy of)) the affidavit~~  
27 ~~((does not match the signature on file or the signature on the copy~~  
28 ~~of)), the identification ((document, the voter must appear in person~~  
29 ~~and sign a new registration form)), and the ballot envelope must all~~  
30 ~~match. The voter must return the signed affidavit and the~~  
31 ~~identification to the auditor no later than the day before ((the))~~  
32 ~~certification of the primary or election ((in order for the ballot to~~  
33 ~~be counted)). The county auditor may also send the voter a new~~  
34 ~~registration form to update the signature on the voter registration~~  
35 ~~record for future elections; or~~

36       (c) Sign a copy of the affidavit provided by the auditor in front  
37 of two witnesses who are registered voters and who attest to the  
38 signature. The signature on the affidavit must match the signature on

1 the ballot envelope. The voter must return the signed affidavit to the  
2 auditor no later than the day before certification of the primary or  
3 election. The county auditor may also send the voter a new  
4 registration form to update the signature on the voter registration  
5 record for future elections.

6 ((+b)) (4) If the signature on an absentee or provisional ballot  
7 envelope is not the same as the signature on the registration ((file))  
8 record because the name is different, the ballot may be counted as long  
9 as the handwriting is clearly the same. The auditor shall send the  
10 voter a change-of-name form under RCW 29A.08.440 and direct the voter  
11 to complete the form. ((+e)) If the signature on an absentee or  
12 provisional ballot envelope is not the same as the signature on the  
13 registration ((file)) record because the voter used initials or a  
14 common nickname, the ballot may be counted as long as the surname and  
15 handwriting are clearly the same.

16 ((+3)) (5) A voter may not cure a missing or mismatched signature  
17 for purposes of counting the ballot in a recount.

18 ((+4)) (6) A record must be kept of all ballots with missing and  
19 mismatched signatures. The record must contain the date on which the  
20 voter was contacted or the notice was mailed, as well as the date on  
21 which the voter signed the envelope, a copy of the envelope, a new  
22 registration form, or a change-of-name form. That record is a public  
23 record under chapter 42.56 RCW and may be disclosed to interested  
24 parties on written request.

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